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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,691	04/21/2006	Paul William Chapman	82047.008	1934
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Intellectual Property Dept. Dewitt Ross & Stevens SC 2 East Mifflin Street Suite 600 Madison, WI 53703-2865			EXAMINER LEE, GILBERT Y	
			ART UNIT 3676	PAPER NUMBER
			NOTIFICATION DATE 05/22/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

doctet-ip@dewittross.com

Office Action Summary

Application No.

10/559,691

Applicant(s)

CHAPMAN, PAUL WILLIAM

Examiner

GILBERT Y. LEE

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8, 16, 18, 19 and 21-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 16, 18, 19 and 21-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 2/17/09 has been entered.

Drawings

2. The drawings are objected to because Fig. 1 seems to be a top view of the invention and it is understood that all cells 2 are equal, but it is unclear as to why the shapes of the cells change and why the anchor point for each cell is moved when moving up the page. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because it is unclear as to what Figure 2 is showing. The brief description of Figure 2 states that Figure 2 is a schematic view showing the retaining means of the cells of the pad; however, Figure 1 does not show the cells having the same shape as in Figure 2. It is unclear whether Figure 2 is a second embodiment. Furthermore, the drawing descriptions to Figures 1-3 disclose that Figures 1-3 are schematic views. It is unclear as to what this means since Figures 1-3 are not showing schemes or diagrams. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bend being within a plan parallel to the pad in claim 1; the bends of the cells rest in a common plane in claims 25 and 26; and the pad base is aligned coplanarly with the plan of the curves of the cells in claim 30 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The amendment filed 8/29/08 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendment to Fig. 3 presents new matter since the dotted line shifts the anchor point, there is no support in the current disclosure that the pad base (12) shifts when the cells are inflated/deflated.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-3, 5-8, 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended claim 1 recites "the retaining means urge the lengths of the cells into a bent shape" and "the bend being within a plane parallel to the pad". There is no support for these limitations in the current disclosure.

Claims 2, 3, 5-8, 21, and 22 are rejected for depending on a rejected claim.

7. Claims 1-3, 5-8, 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Amended claim 1 recites "the retaining means urge the lengths of the cells into a bent shape" and "the bend being within a plane parallel to the pad". The current disclosure does not enable how the cells are urged into a bent shape through the retaining means and in what direction the cells are bent (i.e. upwards towards the user, downwards away from the user, towards the head end of a user, or towards the foot end of the user).

Claims 2, 3, 5-8, 21, and 22 are rejected for depending on a rejected claim.

8. Claims 6-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 6 recites "the retaining means are offset at different distances from the centre linear axis of the cell". This limitation is not supported in the current disclosure.

Claims 7 and 8 are rejected for depending on a rejected claim.

9. Claims 16, 18, 19, and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Amended claim 16 recites "wherein the loops and the fasteners urge the lengths of the cells into curved shapes" and "with cells being received within the curves of adjacent cells". The current disclosure does not enable how the cells are urged into a curved shape through the loops and fasteners and in what direction the cells are curved (i.e. upwards towards the user, downwards away from the user, towards the head end of a user, or towards the foot end of the user).

Claims 18, 19, and 26 are rejected for depending on a rejected claim.

10. Claims 21-24 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the cells being bent, Figs. 2 and 3, does not reasonably provide enablement for how the cells are bent and in what direction the cells are bent. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

11. Claims 25 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 25 and 26 recite “wherein the bends of the cells rest in a common plane”. This limitation is not supported in the current disclosure. Although Figure 2 shows three cells that have a bend in a common plane, it is unclear whether the three cells shown in Figure 2 are stacked or whether the three cells are trying to depict a partial view of Figure 1.

12. Claims 27-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 27 recites “wherein the cells: (1) curve along their lengths”. The current disclosure only discloses “linear cells” throughout the specification. The specification does support the cell curving but only when the cell is tensioned. The claims are not directed to a method of using a pressure pad. Claim 30 recites “the pad base is aligned coplanarly with the plane of the curves of the cells”. There is no support of this limitation in the current disclosure.

Claims 28, 29, and 31-33 are rejected for depending on a rejected claim.

13. Claims 27-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 27 recites "wherein the cells: (1) curve along their lengths". The current disclosure does not enable one of ordinary skill in the art to make a curve along the lengths of the cells. The current disclosure fails to describe how the cells are curved and in what direction the cells are curved.

Claims 28-33 are rejected for depending on a rejected claim.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. Claims 1-3, 5-8, 16, 18, 19, 21-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "the bend being within a plane parallel to the pad". It is unclear to the examiner as to what is being claimed since there is no support in the current disclosure for this limitation.

Claims 1, 3, 16, 22, and 23-30 recite the cell being bent, having a bend, being curved or having a curve. It is unclear as to how the cells bend or curve and in what direction the cells bend or curve.

Claims 2, 5-8, 18, 19, 21, and 31-33 are rejected for depending on a rejected claim.

15. The examiner has not performed a search of the prior art for claims 16, 18, 19, 21-33 due to the lack of enablement of the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-3 and 5-8, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al. (US Patent No. 6,349,439).

Regarding claim 1, the Cook et al. reference discloses a pressure pad (e.g. Fig. 1) comprising at least two sets of alternately inflatable cells (e.g. 1 and 2), the cells having lengths extending linearly transversely along the pad (e.g. Fig. 1) and held in place on a pad base (Figs. 5A-5C) by retaining means (e.g. 4 and 20), characterized in that the retaining means urge the lengths of the cells into a bent shape (e.g. Figs. 1 and 5B, at least part of the length is bent) across the pad, the bend being within a plan parallel to the pad (Figs. 1 and 5B).

Regarding claim 2, the Cook et al. reference discloses the retaining means being releasable (Col. 3, Lines 41-48).

Regarding claim 3, the Cook et al. reference discloses the retaining means securing the opposite ends of each cell at a predetermined distance from the centre linear axis of the cell, and securing a central region of the length of each cell to center

the region about the centre linear axis (Fig. 1), such that the length of each cell is bent (Figs. 5A-5C).

Regarding claims 5 and 8, the Cook et al. reference discloses the retaining means comprising loop straps (e.g. 20) fixed to the pad base retaining the central region of the length of each cell and fasteners (e.g. Col. 3, Lines 41-48) releasably retaining each end of the cell to the pad base.

Regarding claim 6, the Cook et al. reference discloses the retaining means being offset at different distances from the centre linear axis of the cell (Fig. 1), such that the length of each cell is bent (Figs. 5A-5C).

Regarding claim 7, the Cook et al. reference discloses the retaining means secures the central region of the lengths of the cells along the centre linear axis of the cell (e.g. Fig. 1 and Figs. 5A-5C).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-3 and 5-8, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US Patent No. 5,966,762) in view of Cook et al.

Regarding claim 1, the Wu reference discloses a pressure pad (Figs. 1-8) comprising inflatable cells (1), the cells having lengths extending linearly transversely

along the pad (Figs. 1-2) and held in place on a pad base (20) by retaining means (11 and 12), characterized in that the retaining means urge the lengths of the cells into a bent shape (Figs. 7-8) across the pad, the bend being within a plane parallel to the pad (Figs. 7-8).

However, the Wu reference fails to explicitly disclose at least two sets of alternately inflatable cells.

The Cook et al. reference, an inflatable pad, discloses alternately inflatable cells (e.g. 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide alternately inflatable cells to the Wu reference in view of the teachings of the Cook et al. reference in order to prevent and manage ulcers in bedridden patients (Cook et al., Col. 1, Lines 3-6).

Regarding claim 2, the Wu reference, as modified in claim 1, discloses the retaining means being releasable (Wu, Col. 2, Lines 20-23).

Regarding claim 3, the Wu reference, as modified in claim 1, discloses the retaining means securing the opposite ends of each cell at a predetermined distance from the centre linear axis of the cell, and secure a central region of the length of each cell to center the region about the centre linear axis (Wu, Figs. 1-2), such that the length of each cell is bent (e.g. Wu, Fig. 7).

Regarding claims 5 and 8, the Wu reference, as modified in claims 3 and 6, discloses the retaining means comprising loop straps (Wu, 12) fixed to the pad base

retaining the central region of the length of each cell and fasteners (Wu 11) releasably retaining each end of the cell to the pad base (e.g. Wu, Fig.1).

Regarding claim 6, the Wu reference, as modified in claim 1, discloses the retaining means being offset at different distances from the centre linear axis of the cell (Wu, Fig. 7), such that the length of each cell is bent (Wu, Fig. 7).

Regarding claim 7, the Wu reference, as modified in claim 6, discloses the retaining means also securing the central region of the lengths of the cells along the centre linear axis of the cell (e.g. Wu, Figs. 1-8).

Response to Arguments

18. Applicant's arguments filed 2/17/09 have been fully considered but they are not persuasive.

With regards to the applicant's argument of the Drawing Objection of Fig. 1, the argument is not persuasive. The applicant argues that "FIG. 1 simply shows how the bending and tension of cells may be varied along the length of the bed." Each drawing must be depicting a single embodiment of the invention and can not show different variations in a single Figure.

With regards to the applicant's argument of the Drawing Objection of claim 10, the argument is not persuasive. The examiner notes that claim 10 has been cancelled. However, the applicant argues that "FIG. 1 can be regarded as showing the cells in a deflated state, FIG. 2 can be regarded as showing the cells in an inflated state, and FIG. 3 shows the cells in both a tensioned stated (in solid lines) and an untensioned stated

(in phantom lines). These descriptions of Figs. 1-3 are not found in the current disclosure.

With regards to the applicant's argument of the Drawing Objection of amended Fig. 3, the argument is not persuasive because the amended drawings contain new matter as stated above. The applicant argues that there is no "new" feature shown in amended Fig. 3 and recites passages from the current disclosure. As stated previously and above, the current disclosure does not disclose shifting the pad base to accommodate tensioning or untensioning of the cells.

With regards to the applicant's argument of the 35 U.S.C. 112, first paragraph, rejection, the argument is not found persuasive. The applicant argues that Fig. 1 is noted as being a plan view; however, the detailed drawing description discloses that Fig. 1 is a schematic view. It is unclear as to what view Fig. 1 is showing especially because the cells are changing in shape. The applicant further argues that the depicted cells are bent in a plane parallel to the pad and is clearly shown in Fig. 1. It is unclear to the examiner as to how Fig. 1 is showing bent cells, if Fig. 1 (as argued earlier by the applicant) is showing a deflated state. The disclosure clearly discloses that the cell is linear. The applicant further argues that Fig. 2 shows the bends in greater detail and also points out that the pad base is not shown. It is unclear as to what Fig. 2 is showing since the pad base is not shown and since the shapes of the cells are not the same as shown in Fig. 1.

With regards to the applicant's argument of the 35 U.S.C. 112, second paragraph, rejection, the argument is not persuasive because, as clearly stated in the

rejection, the claims are indefinite and it is unclear as to how the cells are being curved or bent and in what direction.

With regards to the applicant's argument of the rejection of claim 1 in view of the Cook et al. reference, the argument is not persuasive because the Cook et al. reference discloses the structure as claimed in claim 1. Since the structure, as claimed, is disclosed by Cook et al., the Cook et al. reference will be **capable of** functioning in the same manner as the current invention. As rejected above, the current disclosure lacks enablement of how the cells bend.

With regards to the applicant's argument of the rejection of claim 3 in view of the Cook et al. reference, the argument is not persuasive because Fig. 5B clearly discloses the cell being bent and being secured by the loops.

With regards to the applicant's argument of the rejection of claim 6 in view of the Cook et al. reference, the argument is not persuasive because the bend shown in Fig. 5B makes different axes for the cells and clearly the straps are offset from different axes of the cells.

With regards to the applicant's argument of the rejection of claims 5 and 8 in view of the Cook et al. reference, the argument is not persuasive because a strap is a "fastener" that can be released.

With regards to the applicant's argument of the rejection of claim 1 in view of the 35 U.S.C 103 (a) rejection, the argument is not persuasive because at least part of the bend is parallel to the plan of the pad base.

With regards to the rejection of claim 16 in view of the 35 U.S.C. 103 (a) rejection, the rejection has been withdrawn and a new rejection set forth above.

With regards to the applicant's arguments of claims 25-33, the arguments are not persuasive and rejection has been made above.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer H. Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer H Gay/
Supervisory Patent Examiner, Art
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/G. Y. L./
Examiner, Art Unit 3676